

ORIGINAL



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October 29, 2010

Via Hand-delivery

Hon. Lyn Farmer  
Chief Administrative Law Judge  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

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2010 OCT 29 P 3:17  
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**Re: In re: Radical Bunny (S-20660A-09-0107)**

Dear Judge Farmer:

As you know, we represent Mr. Robert Kant. We are writing to notify the Commission of the annexed correspondence, Exhibit 1, which we received today from counsel for the ML Liquidating Trust ("Trust"), the entity that controls the rights and privileges of Mr. Kant's former client, Mortgages Ltd. Mr. Downey's response to that letter is annexed as Exhibit 2. In light of this modification in the Trust's position, we believe Mr. Kant is now ethically permitted to testify in this proceeding concerning non-privileged matters. We have informed Ms. Coleman of the Trust's change in position, and she has told us that she intends to call Mr. Kant as the first witness on Wednesday morning, November 3, 2010. Accordingly, the Commission need not consider the request for relief set forth in our October 26, 2010 letter.

Respectfully submitted,

Martin R. Galbut

/nsn  
Enclosures

cc: Julie Coleman, Esq. (via hand-delivery)  
Michael LaVelle, Esq. (via hand-delivery)  
William Scott Jenkins, Esq. (via hand-delivery)  
Kevin O'Halloran (via e-mail – kevinm@bellsouth.net)  
Richard Shaw (via e-mail – rcshaw2@aol.com)  
Michael O'Mara (via e-mail – momara@stradley.com)

Arizona Corporation Commission  
DOCKETED

OCT 29 2010



# EXHIBIT 1

LAW OFFICES

# Myers & Jenkins

A PROFESSIONAL CORPORATION

One East Camelback Road  
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William Scott Jenkins

October 29, 2010

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**VIA E-MAIL – [kdowney@wc.com](mailto:kdowney@wc.com)**  
**and Regular Mail**

Kevin M. Downey  
Williams & Connolly LLP  
725 Twelfth Street, N.W.  
Washington, D.C. 20005-5901

**Re: In re Radical Bunny (S-2066A-09-0107)**

Dear Kevin:

As you are aware, this firm represents the ML Liquidating Trust and ML Servicing Co., Inc., formerly known as Mortgages Ltd. This is to acknowledge receipt of your letter to The Honorable Lyn Farmer dated October 26, 2010 in the above-referenced matter. Upon reviewing said letter, and as we briefly discussed by telephone yesterday, it is my clients' view that you misread the scope of the instructions set forth in my letter to Ms. Oberwetter dated October 13, 2010 when you advised Judge Farmer that my clients had instructed Mr. Kant to, among other things, ". . . not to testify at the hearing concerning . . . any information he learned during the course of his representation of Mortgages Ltd." It is my clients' position that Mr. Kant is free to testify at the hearing before the Arizona Corporation Commission in the above-referenced matter regarding any matters except to the extent such matters involve any inquiry into any area that seeks information that is protected by attorney/client and/or work product privileges. In such case, my clients expect, and hereby instruct, Mr. Kant to refuse to answer any such questions pursuant to the attorney/client and/or work product privileges. If any questions do not fall within the scope of one of the aforementioned doctrines, my clients have no objection to Mr. Kant's response thereto.

I have also passed on your recommendation to my clients that they consider having their own counsel present at the scheduled administrative hearing in order to help ensure that the applicable attorney/client and work product privileges are being properly protected. No decision has been made on your recommendation, but I will advise you as

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soon as such decision is made. It would be helpful to determine when Mr. Kant is expected to be called as a witness, so that the expense to my clients in having counsel present can be minimized, if they choose to have counsel present. Should you have any questions regarding any of the foregoing, including the revised instructions relative to Mr. Kant's testimony, please feel free to call me at your earliest convenience.

Very truly yours,

*William Scott Jenkins*

William Scott Jenkins

WSJ:ah

# EXHIBIT 2

LAW OFFICES  
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EDWARD BENNETT WILLIAMS (1920-1988)  
PAUL R. CONNOLLY (1922-1978)

October 29, 2010

**Via Federal Express and E-mail**

Mr. William Scott Jenkins, Esq.  
Myers & Jenkins, PC  
One East Camelback Road  
Suite 500  
Phoenix, Arizona 85012

**Re: In re Radical Bunny (S-20660A-09-0107)**

Dear Mr. Jenkins:

Thank you for your letter sent via e-mail earlier today. This confirms that the ML Liquidating Trust has now given informed consent that Mr. Kant may testify before the Arizona Corporation Commission ("Commission") in the above-referenced proceeding concerning information relating to his representation of Mortgages Ltd., except to the extent that such information is protected from disclosure by the attorney-client or work product privileges. For purposes of this proceeding, the ML Liquidating Trust waives any and other all rights it may possess under Arizona Ethics Rule 1.6(a) to protect the confidentiality of all other information that Mr. Kant may possess.

For the record, we did not misread your letter of October 13, 2010, although you may have written the letter more broadly than you intended. The letter states, "the ML Liquidating Trust expects, and hereby demands, that Mr. Kant protect all client confidences and assert the attorney/client privilege in response to all inquiries relating to his representation of Mortgages Ltd. . . . in accordance with his ethical, legal and contractual duties and responsibilities to the Client." Nevertheless, whether ML Liquidating Trust has altered or clarified its instruction, I believe this exchange of correspondence resolves the matter.

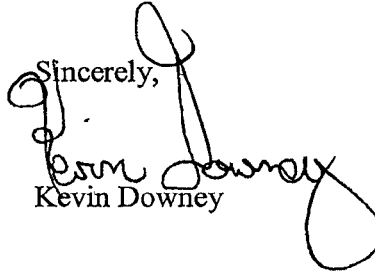
WILLIAMS & CONNOLLY LLP

Mr. William Scott Jenkins, Esq.

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In closing, please note that it is our understanding that the Commission intends to call Mr. Kant as its first witness on Wednesday morning, November 3rd at 9:00 AM. Again, I urge that a lawyer representative of your client attend for purposes of dealing with privilege assertions.

Sincerely,  
  
Kevin Downey

cc: Kevin O'Halloran (via e-mail – kevinnm@bellsouth.net)  
Richard Shaw (via e-mail – rcshaw@aol.com)  
Michael O'Mara (via e-mail – momara@stradley.com)